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VANESSA EPHRAIM

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VANESSA EPHRAIM, an individual.

Plaintiff(s),

v.

COUNTY OF LOS ANGELES, a
government entity; and DOES 1 to 100,
inclusive,

Defendants.

CASE NO.

COMPLAINT

1. Deprivation of Civil Rights – First Amendment Religious Freedom, 42 U.S.C. § 1983
2. Deprivation of Civil Rights Article 1 § 4 California Constitution
3. Harassment Government Code § 12940 (j)(1)
4. Religious Discrimination Government Code § 12940(a)
5. Failure to Accommodate Government Code § 12940 (l)(1)
6. Violation of FEHA – Failure to Take All Reasonable Steps Necessary to Prevent Discrimination from Occurring; and
7. Intentional Infliction of Emotional Distress;

PARTIES

1. At all relevant times, Plaintiff VANESSA EPHRAIM (“Plaintiff”) was a resident of San Bernardino County, California.

2. Defendant COUNTY OF LOS ANGELES (“CLA”) is a “public agency” pursuant to California Government Code section 3501(c), and has offices in Los Angeles County, California. The County pays the wages of its employees, including Plaintiff.

3. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore uses fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.

4. CLA and all named, and unnamed Doe defendants are collectively referred to as “Defendants.”

5. Plaintiff is informed and believes that each of the Defendants was the agent or employee of the other Defendants and acted in the scope of agency or employment.

PLAINTIFFS HAVE EXHAUSTED THEIR ADMINISTRATIVE REMEDIES

6. On May 26, 2023, Plaintiff submitted a Complaint regarding Defendants’ failure to provide them a religious exemption to the COVID-19 vaccine, based on their sincerely held religious beliefs, to the California Civil Rights Department (“CCRD”). CCRD issued an immediate right-to-sue letter on May 26, 2023.

7. While Plaintiff does not believe it was legally necessary, in an abundance of caution, Plaintiff submitted the proper government tort claim form, filled it out, and attached a demand containing the factual basis of Plaintiff’s claims, to that form; on May 26, 2023, Plaintiff submitted a Government Tort claim to Defendants.

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FACTUAL ALLEGATIONS

8. Plaintiff began her employment with Defendants in August of 2014, filling the role of Eligibility Worker II.

9. In December of 2021, Plaintiff submitted a timely request for religious accommodation in relation to County's policy requiring all employees to receive the COVID-19 vaccination.

10. Plaintiff made clear that her objection to receiving the COVID-19 vaccine was based on several religious beliefs; the two main religious beliefs were: (1) that receiving a vaccine which had utilized fetal cells in its development was tantamount to supporting abortion, which Plaintiff does not support; and (2) God rules over his children's health, and that receiving the vaccine would essentially second-guess God's plan.

11. Plaintiff waited patiently for two months, following all the safety procedures that had been in effect without issue, while Defendants decided whether Plaintiff's religious beliefs were worth protecting.

12. In February of 2022, without any reason for doing so, provided form "clarification questions," asking flawed questions, eliciting uneducated responses, which Defendants seized on as justification for determining that Plaintiff's beliefs were not religious or sincere.

13. Defendants responded a few months after Plaintiff responded to their "clarification questions."

14. During the entirety of this process, Plaintiff was constantly reminded that her livelihood was at stake during time.

15. In March of 2022, Defendants denied Plaintiff's request for accommodation, and gave her 10 days to file for reconsideration.

16. Plaintiff filed her request for consideration shortly thereafter and reaffirmed the religious nature of her objections to County's COVID-19 vaccine policy.

17. Over the next nine months, Plaintiff was reminded, on a near-daily basis, that

1 her livelihood was at risk, all she had to do was forsake her sincerely held religious
2 beliefs and incur the Mark of the Beast.

3 18. Defendants remained willfully ignorant of the implications of someone
4 standing by their beliefs in the face of threats, discomfort, and fear – sincerity.

5 19. Plaintiff’s religious beliefs were casually tossed to the side like muddied socks
6 in January of 2023; her request for reconsideration had been denied.

7 20. Plaintiff was told that the stay on her execution had been lifted, there were no
8 appeals left to be had, and she had until March 22, 2023, to get her affairs in order.

9 21. Plaintiff was terrified at the prospect of being unemployed in such dire times.

10 22. On April 4, 2023, Defendants rescinded their COVID-19 vaccine requirement.

11 23. Plaintiff stood by her convictions and was rewarded with a job that should
12 have never been at risk; she kept her income but was ordered to pretend County
13 didn’t spit on her core beliefs, call her a liar, and then threaten to terminate her.

14
15 **FIRST CAUSE OF ACTION**

16 **Deprivation of Civil Rights – 42 U.S.C. § 1983**

17 **Violation of the Free Exercise and Establishment Clauses**

18 **of the First Amendment**

19 24. Plaintiff re-alleges and incorporates herein by reference all the above
20 paragraphs, as though fully set forth herein.

21 25. Defendant is a “state actor” as that term is used with respect to those entities
22 obliged to comply with constitutional norms.

23 26. At all times relevant herein, Plaintiff enjoyed rights protected by the First
24 Amendment of the United States Constitution to the “free exercise” of their religion.

25 27. These rights are secured against violation by state actors, including
26 Defendants, through 42 U.S.C § 1983.

27 28. Defendants imposed a substantial burden on Plaintiff’s religious beliefs by
28 denying their requests for religious accommodation, and subsequently threatening

1 them with suspension and termination for exercising their religious beliefs not to
2 receive the Covid-19 vaccine.

3 29. Defendants harassed Plaintiffs to get vaccinated.

4 30. Defendants acted pursuant to a vaccine mandate policy whose goal was to
5 have as many employees vaccinated as possible.

6 31. Defendants' actions were intended to cause extreme mental and emotional
7 stress and duress.

8 32. Defendants' actions were not the least restrictive means of accomplishing any
9 compelling interest it may allege, including but not limited to its interest in insuring
10 the health and safety of its employees and the public.

11 33. On information and belief, Defendants regarded Plaintiff's religious
12 objections, based on the use of fetal tissue in either the testing or production of the
13 vaccines less favorably than the religious beliefs of others, similarly situated.

14 34. In so doing, Defendants violated the most basic requirement of the First
15 Amendment's Establishment Clause by preferring some religious beliefs over others,
16 thereby violating principles of government neutrality toward religion.

17 35. "The clearest command of the Establishment Clause is that one religious
18 denomination cannot be officially preferred over another." *Larson v. Valente*, 456
19 U.S. 228, 244 (1982).

20 36. As a proximate result of Defendant's actions, Plaintiff has suffered harm and
21 seeks damages in an amount according to proof, together with declaratory and
22 injunctive relief, declaring that Defendants violated their First Amendment Rights.

23
24 **SECOND CAUSE OF ACTION**

25 **Violation of Free Exercise and Enjoyment Clause of**
26 **California Constitution Article 1 § 4**

27 37. Plaintiff re-alleges and incorporates herein by reference all the above
28 paragraphs, as though fully set forth herein.

1 38. Plaintiffs have a sincerely held religious belief against receiving the Covid-19
2 vaccine.

3 39. Defendants imposed a substantial burden on Plaintiff's religious beliefs by
4 denying their requests for religious accommodation, and subsequently threatening
5 them with suspension and termination for exercising their religious beliefs not to
6 receive the Covid-19 vaccine.

7 40. Defendants harassed Plaintiff to get vaccinated.

8 41. Defendants' actions were intended to cause extreme mental and emotional
9 stress and duress.

10 42. Defendants' actions were not the least restrictive means of accomplishing any
11 compelling interest it may allege, including but not limited to its interest in insuring
12 the health and safety of its employees and the public.

13 43. The California Constitution, Article 1 § 4, states in relevant part: "Free
14 exercise and enjoyment of religion without discrimination or preference are
15 guaranteed."

16 44. When the California Constitution was last revised, and this language re-
17 adopted, state law clearly provided that free exercise claims were protected by "strict
18 scrutiny," i.e., the government has the burden to prove a sufficiently compelling
19 interest unable to be achieved by means less restrictive of one's religion, to justify
20 imposing a substantial burden on one's religion.

21 45. Whether a law is facially neutral or generally applicable is irrelevant in
22 situations as at present where the law requires "individualized assessments."

23 46. On its face, the Fair Employment and Housing Act requires individualized
24 assessment of an employee's request for religious accommodation, requiring an
25 employer to "explore any available reasonable alternative means" of providing the
26 accommodation. Government Code § 12940(l)(1).

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1 47. In the present case, Defendants were required by law to engage in an
2 individualized assessment with respect to providing religious accommodation to
3 Plaintiffs.

4 48. As a proximate result of Defendant's actions, Plaintiff has suffered harm and
5 seeks damages in an amount according to proof.

6 49. Plaintiffs are entitled to recover reasonable attorney fees and costs pursuant to
7 Code of Civ. Proc. § 1021.5, and any other applicable statutory provision, since this
8 is an action to vindicate an important right of religious freedom affecting the public
9 interest.

10
11 **THIRD CAUSE OF ACTION**
12 **Religious Harassment / Coercion**
13 **Cal. Gov't Code § 12940(j)(1)**

14 50. Plaintiff re-alleges and incorporates herein by reference all the above paragraphs,
15 as though fully set forth herein.

16 51. Under California Law, it is unlawful for an employer to "harass an employee"
17 because of their "religious creed." (See Gov. Code §12940 subd. (j)(1)).

18 52. California law closely tracks Title VII, which, according to the Equal
19 Employment Opportunity Commission, prohibits religious coercion as a form of
20 religious harassment, explaining in its compliance manual that religious coercion
21 occurs: "when an employer or supervisor explicitly or implicitly coerces an
22 employee to abandon, alter, or adopt a religious practice as a condition of receiving a
23 job benefit or privilege or avoiding an adverse employment action."

24 53. Defendant's actions as alleged herein were intended to pressure and coerce
25 Plaintiff to violate their sincerely held religious beliefs and receive the Covid-19
26 vaccine as a condition of being able to retain their employment.

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28 ///

1 54. Defendant's actions demonstrate that it was more important to obtain 100%
2 compliance with its vaccine mandates, than to respect the civil and constitutional
3 rights of its employees.

4 55. By means of its continued threats of suspensions and terminations piled on top of
5 a workplace facing a systemic mental health crisis, Defendants created an intolerably
6 hostile workplace for those, like Plaintiff, whose religious beliefs precluded their
7 receiving the Covid-19 vaccine.

8 56. As a direct and proximate result of Defendant's harassment, Plaintiff suffered
9 loss of wages and benefits and mental anguish and emotional distress in an amount
10 according to proof.

11 57. Plaintiff should recover reasonable attorney fees and costs (See Code Civ. Proc.
12 § 1021; Gov. Code § 12965, subd. (b)).

13
14 **FOURTH CAUSE OF ACTION**

15 **Religious Discrimination**

16 **Government Code § 12940(a)**

17 58. Plaintiff re-alleges and incorporates herein by reference all the above paragraphs,
18 as though fully set forth herein.

19 59. California Government Code § 12940 (a) provides that it is an unlawful
20 employment practice for an employer because of a person's religion, religious creed,
21 religious beliefs, religious practices, or religious observances, to refuse to hire or
22 employ the person, to refuse to select the person for a training program leading to
23 employment, or to discriminate against the person in compensation or in terms,
24 conditions, or privileges of employment.

25 60. Defendants subjected Plaintiff to adverse employment actions by denying their
26 requests for religious accommodation, and threatening them with suspension and
27 termination, thereby creating a hostile work environment.

28 61. On information and belief, Defendants disfavored accommodation requests

1 based on a religious belief about the use of fetal cells, treating requests based on
2 other religious beliefs more favorably.

3 62. On information and belief, Defendant also treated requested Covid-19
4 disability accommodations more favorably than similar requests based on objection
5 to the use of fetal cell tissue, as well as favoring religious accommodation requests
6 for reasons other than the Covid-19 vaccine, such as scheduling accommodations
7 and/or dress and appearance issues.

8 63. On information and belief, Plaintiff's religious beliefs and objections to the
9 Covid-19 vaccine were the substantial motivation for these adverse employment
10 actions.

11 64. Defendants have unlawfully discriminated against Plaintiff by suspending
12 them for the exercise of their religious beliefs.

13 65. Defendants' suspension of Plaintiff's employment was motivated by, and is
14 the result of, the exercise of their sincerely held religious beliefs.

15 66. Defendants lacked any justification for the adverse employment action taken
16 against Plaintiffs, as the mechanism they used to determine the sincerity of Plaintiff's
17 religious beliefs were designed to allow them to reject those requests without any
18 oversight; the questions were designed to be ambiguous enough that it would elicit a
19 response they could use to justify rejection after-the-fact.

20 67. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered
21 actual harm, in an amount subject to proof at the time of trial.

22 68. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered
23 and continues to suffer emotional distress, humiliation, mental anguish, and
24 embarrassment.

25 69. As a proximate act of the wrongful acts of Defendants, Plaintiff has been
26 forced to hire attorneys to prosecute their claims herein and have incurred and are
27 expected to incur attorneys' fees and costs in connection therewith. Plaintiffs is
28 entitled to recover attorneys' fees and costs under California Government Code

1 §12965(b).

2 70. Plaintiff is entitled to other such relief as this court deems appropriate.

3
4 **FIFTH CAUSE OF ACTION**

5 **Religious Discrimination – Failure to Accommodate**

6 **Cal. Gov't Code § 12940 (l)(1)**

7 71. Plaintiff re-alleges and incorporates herein by reference all the above
8 paragraphs, as though fully set forth herein.

9 72. The California Fair Employment and Housing Act provides that it is unlawful
10 for an employer to discriminate against or discharge a person from employment
11 “because of a conflict between the person’s religious belief or observance and any
12 employment requirement.” (Gov. Code § 12940, subd. (l)(1)).

13 73. The statute further protects “all aspects of religious belief, observance, and
14 practice.” (Gov. Code § 12926, subd (q)).

15 74. An employer is required to “[explore] any available reasonable alternative
16 means of accommodating the religious belief and observance, including the
17 possibilities of excusing the person from those duties that conflict with the person’s
18 religious belief or observance or permitting those duties to be performed at another
19 time or by another person . . .” Cal. Gov. Code. § 12940(l)(1).

20 75. As alleged herein, Plaintiff has a sincerely held religious beliefs that they
21 should not receive the Covid-19 vaccine.

22 76. Plaintiff informed Defendants of their religious beliefs, putting Defendants on
23 notice that their beliefs conflicted with the Defendants’ vaccine mandate policy.

24 77. As alleged herein, Defendants failed and refused to explore any possible
25 accommodation for Plaintiff, and refused even to discuss possible accommodation,
26 violating its obligation to explore possible accommodation in good faith.

27 78. Defendants denied Plaintiff religious accommodation and threatened them
28 with suspension and termination and harassing them to violate their religious beliefs.

1 79. Defendants' actions constitute adverse employment actions, as it is black letter
2 law that "the threat of discharge" constitutes an adverse action, sufficient to establish
3 a prima facie case. *See, e.g. EEOC v. Townley*, 859 F. 2d 614; *Opuku Boateng*
4 *v. California*, 95 F. 3d 1461 (1996).

5 80. As a proximate result of the aforesaid acts of Defendants, Plaintiff has suffered
6 actual harm, in an amount subject to proof at the time of trial.

7 81. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered
8 and continues to suffer emotional distress, humiliation, mental anguish, and
9 embarrassment.

10 82. As a proximate act of the wrongful acts of Defendants, Plaintiff has been
11 forced to hire attorneys to prosecute their claims herein and have incurred and are
12 expected to incur attorneys' fees and costs in connection therewith. Plaintiff is
13 entitled to recover attorneys' fees and costs under California Government Code
14 §12965(b).

15 83. Plaintiff is entitled to other such relief as this court deems appropriate.
16

17 **SIXTH CAUSE OF ACTION**

18 **Failure to Take All Reasonable Steps Necessary**
19 **to Prevent Discrimination from Occurring**
20 **Government Code § 12940(k)**

21 84. Plaintiff incorporates by reference the paragraphs above.

22 85. It is unlawful under California Government Code section 12940(k) for an
23 employer to fail to take all reasonable steps necessary to prevent discrimination and
24 harassment based on an employee's religion, or that religion's creed, beliefs,
25 practices, or observances.

26 86. Defendants designed a system to screen requests for vaccine exemptions that
27 was arbitrary and capricious and ineffective at determining whether an applicant held
28 a sincere religious objection. Defendants' approach was designed to elicit ambiguous

1 responses that would allow them to reject any request for religious accommodation
2 without any oversight.

3 87. Defendants failed and refused to engage in a good faith interactive process
4 whereby a management individual actually interviewed the applicant in an effort to
5 comprehend the nature of the religious objection.

6 88. Instead, Defendants required Plaintiff to answer confusing questions calling
7 for theological knowledge beyond their training and education.

8 89. Even after it was apparent that Plaintiff would not be bullied into receiving the
9 vaccine, at o time did anyone in management sit each one down and seek to ascertain
10 the substance of their religious objection, to determine whether they should be
11 granted the accommodation, rather than subjected to coercive pressure to conform to
12 the vaccine mandate.

13 90. As a proximate result of the aforesaid acts of Defendants, Plaintiff has
14 suffered actual harm, in an amount subject to proof at the time of trial.

15 91. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered
16 and continues to suffer emotional distress, humiliation, mental anguish, and
17 embarrassment.

18 92. As a proximate act of the wrongful acts of Defendants, Plaintiff has been
19 forced to hire attorneys to prosecute their claims herein and has incurred and is
20 expected to incur attorneys' fees and costs in connection therewith. Plaintiff is
21 entitled to recover attorneys' fees and costs under California Government Code
22 §12965(b).

23 93. Plaintiff is entitled to other such relief as this court deems appropriate.
24

25 **SEVENTH CAUSE OF ACTION**

26 **Intentional Infliction of Emotional Distress**

27 **By All Plaintiffs Against All Defendants**

28 94. Plaintiff incorporates by reference the paragraphs above.

1 95. The conduct of Defendants, as set forth above, was so extreme and outrageous
2 that it exceeded the boundaries of a decent society and lies outside the compensation
3 bargain.

4 96. Said conduct was intended to cause Plaintiff severe emotional distress or was
5 done in conscious disregard of the probability of causing severe emotional distress.
6 Said conduct was also in direct violation of California law and public policy.

7 97. As a proximate result of the wrongful conduct of Defendants, Plaintiff has
8 sustained substantial losses in earnings and other employment benefits in an amount
9 according to proof at the time of trial.

10 98. As a further proximate result of the wrongful conduct of Defendants, Plaintiff
11 has suffered and continues to suffer humiliation, embarrassment, severe emotional
12 distress, and mental anguish, all to Plaintiff's damage in an amount according to
13 proof at the time of trial.

14 In doing all the acts herein alleged, Defendants, through their managing agents, acted
15 with oppression, fraud, malice, and in the conscious disregard of the rights of
16 Plaintiff.

17
18 **PRAYER**

- 19 1. Lost wages;
20 2. Future earnings;
21 3. General damages;
22 4. Interest;
23 5. Attorneys' fees;
24 6. Costs;
25 7. Injunctive Relief;
26 8. Declaratory Relief; and
27 9. Other relief the court deems proper.
28

1 Date: October 17, 2023

FRONTIER LAW CENTER

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3 /s/ Joseph Gross

4 Joseph Gross

Attorneys for Plaintiff

5 VANESSA EPHRAIM

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